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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2012-751**

12 **SHARON ESTERS-THAMES**  
13 **aka SHARON ELIZABETH THAMES**  
14 **aka SHARON E. ESTERS**  
15 **11858 Stoney Peak Drive #521**  
**San Diego, CA 92128**

**A C C U S A T I O N**

16 **Registered Nurse License No. 270131**  
**Public Health Nurse Certificate No. 26874**

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
23 of Consumer Affairs.

24 2. On or about August 31, 1976, the Board of Registered Nursing issued Registered  
25 Nurse License Number 270131 to Sharon Esters-Thames, also known as Sharon Elizabeth  
26 Thames, also known as Sharon E. Esters (Respondent). The Registered Nurse License was in full  
27 force and effect at all times relevant to the charges brought herein and will expire on July 31,  
28 2012, unless renewed.

3. On or about August 22, 1978, the Board of Registered Nursing issued Public Health Nurse Certificate Number 26874 to Respondent. The Public Health Nurse Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2012, unless renewed.

## JURISDICTION

4. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

## STATUTORY PROVISIONS

7. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

8. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

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1           9.     Section 493 of the Code states:

2                 Notwithstanding any other provision of law, in a proceeding conducted by a  
3     board within the department pursuant to law to deny an application for a license or to  
4     suspend or revoke a license or otherwise take disciplinary action against a person who  
5     holds a license, upon the ground that the applicant or the licensee has been convicted  
6     of a crime substantially related to the qualifications, functions, and duties of the  
7     licensee in question, the record of conviction of the crime shall be conclusive  
8     evidence of the fact that the conviction occurred, but only of that fact, and the board  
9     may inquire into the circumstances surrounding the commission of the crime in order  
10    to fix the degree of discipline or to determine if the conviction is substantially related  
11    to the qualifications, functions, and duties of the licensee in question.

12                 As used in this section, "license" includes "certificate," "permit," "authority,"  
13     and "registration."

14           10.    Section 2761 of the Code states:

15                 The board may take disciplinary action against a certified or licensed nurse or  
16     deny an application for a certificate or license for any of the following:

17                 (a)   Unprofessional conduct, which includes, but is not limited to, the  
18     following:

19                 ....

20                 (f)   Conviction of a felony or of any offense substantially related to the  
21     qualifications, functions, and duties of a registered nurse, in which event the record of  
22     the conviction shall be conclusive evidence thereof.

23                 ....

24           11.    Section 2762 of the Code states:

25                 In addition to other acts constituting unprofessional conduct within the meaning  
26     of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person  
27     licensed under this chapter to do any of the following:

28                 ....

                 (b)   Use any controlled substance as defined in Division 10 (commencing with  
Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous  
device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner  
dangerous or injurious to himself or herself, any other person, or the public or to the  
extent that such use impairs his or her ability to conduct with safety to the public the  
practice authorized by his or her license.

                 (c)   Be convicted of a criminal offense involving the prescription, consumption,  
or self-administration of any of the substances described in subdivisions (a) and (b) of  
this section, or the possession of, or falsification of a record pertaining to, the  
substances described in subdivision (a) of this section, in which event the record of  
the conviction is conclusive evidence thereof.

                 ....

12. Section 2765 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

### REGULATORY PROVISIONS

13. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

14. California Code of Regulations, title 16, section 1445 states:

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

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1 (5) If applicable, evidence of expungement proceedings pursuant to Section  
2 1203.4 of the Penal Code.

3 (6) Evidence, if any, of rehabilitation submitted by the licensee.

4 **COST RECOVERY**

5 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
6 administrative law judge to direct a licensee found to have committed a violation or violations of  
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
8 enforcement of the case.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(February 4, 2011 Criminal Conviction for DUI on December 9, 2010)**

11 16. Respondent has subjected her license and certificate to disciplinary action under  
12 sections 490 and 2761, subdivision (f) of the Code in that she was convicted of a crime that is  
13 substantially related to the qualifications, functions, and duties of a registered nurse. The  
14 circumstances are as follows:

15 a. On or about February 4, 2011, in a criminal proceeding entitled *People of the*  
16 *State of California v. Sharon Elizabeth Thames*, in San Diego County Superior Court, case  
17 number CN286387, Respondent was convicted on her plea of guilty of violating Vehicle Code  
18 section 23152, subdivision (a), driving under the influence of alcohol/drugs, a misdemeanor. The  
19 court found true the special allegation that Respondent's blood alcohol concentration (BAC) of  
20 .15 percent or more, pursuant to Vehicle Code section 23578. An additional count of violating  
21 Vehicle Code section 23152, subdivision (b), driving with a BAC of 0.08% or more, was  
22 dismissed pursuant to a plea agreement.

23 b. As a result of the conviction, on or about February 4, 2011, Respondent was  
24 granted five years summary probation. Respondent was ordered to complete 10 days of public  
25 service, with credit for one day, complete a First Conviction Program and a MADD Victim  
26 Impact panel, pay fines and fees in the amount of \$1,952, and comply with the terms of standard  
27 DUI probation.

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1 c. On or about September 3, 2011, Respondent was arrested at her residence on a  
2 warrant. On or about October 18, 2011, the court revoked Respondent's probation for failure to  
3 comply with the term requiring public service. Probation was reinstated and Respondent was  
4 ordered to complete 80 hours of volunteer work, and pay a civil assessment of \$1,402. Probation  
5 was extended to March 31, 2016.

6 d. The facts that led to the conviction are that on or about the evening of  
7 December 9, 2010, a patrol officer with the California Highway Patrol (CHP) was dispatched to a  
8 report of a disabled motorist in the vicinity of Oceanside. Upon arrival, the CHP officer  
9 determined that there had been a collision with property damage, involving a possible DUI driver.  
10 In speaking to the victims/witnesses, it was determined that Respondent rear-ended a vehicle at a  
11 red stop light, which forced the first victim's vehicle to impact the rear of the second victim's  
12 vehicle. Upon contact with Respondent, the CHP officer observed that Respondent's speech was  
13 slurred and her eyes were red and watery. Respondent stated she did not know what happened.  
14 Respondent was directed to exit her vehicle and walk to the officer's patrol vehicle. Respondent  
15 was unsteady on her feet and there was a strong odor of an alcoholic beverage emitting from her  
16 breath. When asked if she had been drinking, Respondent appeared offended and stated that she  
17 had consumed one Vodka Sprite earlier in the evening. Respondent became uncooperative and  
18 refused to submit to further questions, and refused to perform field sobriety tests. Respondent  
19 was arrested for driving under the influence. Respondent provided two breath samples which  
20 were analyzed and revealed a BAC of .22 and .21 percent, respectively.

## 21 **SECOND CAUSE FOR DISCIPLINE**

### 22 **(Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)**

23 17. Respondent has subjected her license and certificate to disciplinary action under  
24 section 2762, subdivision (b) of the Code for unprofessional conduct in that on or about  
25 December 9, 2010, as described in paragraph 16, above, Respondent used alcoholic beverages to  
26 an extent or in a manner that was dangerous and injurious to herself, and to others in that she  
27 operated a motor vehicle with a significantly high blood alcohol concentration and caused a  
28 collision.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Conviction of an Alcohol-Related Criminal Offense)**

3 18. Respondent has subjected her license and certificate to disciplinary action under  
4 section 2762, subdivision (c) of the Code for unprofessional conduct in that on or about February  
5 4, 2011, as described in paragraph 16, above, Respondent was convicted of a criminal offense  
6 involving the consumption of alcohol.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
9 and that following the hearing, the Board of Registered Nursing issue a decision:

10 1. Revoking or suspending Registered Nurse License Number 270131, issued to Sharon  
11 Esters-Thames, also known as Sharon Elizabeth Thames, also known as Sharon E. Esters;

12 2. Revoking or suspending Public Health Nurse Certificate Number 26874, issued to  
13 Sharon Esters-Thames;

14 3. Ordering Sharon Esters-Thames to pay the Board of Registered Nursing the  
15 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
16 Professions Code section 125.3;

17 4. Taking such other and further action as deemed necessary and proper.

18  
19  
20 DATED: June 20, 2012



for LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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